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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,826	08/06/2003	Virgilio Miriello	Q76763	7350
23373	7590	04/20/2007	EXAMINER	
SUGHRUE MION, PLLC			CHERY, DADY	
2100 PENNSYLVANIA AVENUE, N.W.				
SUITE 800			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20037			2616	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE		DELIVERY MODE
3 MONTHS		04/20/2007		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/634,826	MIRIELLO ET AL.	
	Examiner	Art Unit	
	Dady Chery	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 August 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>11/10/03</u>	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 6 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 34 recites a means that does not appear in combination with another recited element of means. The single means recites in the claim make it nonenabling because the specification disclosed at most only those means known to the inventor.

See MPEP 2164.08 (a).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by (Proposed ITU-T contribution on transparent OCH Spring, January 2001 by Corning Incorporated).

Regarding 1, Corning discloses a method for shared protection in an Optical Transport Network ring (Page 2, Fig. 2.1) where there is an APS signaling information presents in each node (Page 4, Fig. 3.1). Corning also discloses a working path that carries primary traffic (High Priority Traffic) and a protection path that carries extra traffic (Low Priority Traffic) (Page2, Paragraph 1). When a fault occurs the ring (Fig. 2.2) responds by disconnecting the extra traffic (Low Priority Traffic) and using the protection path to carry the primary traffic (High Priority Traffic) (Pages 2 and 3, Paragraph 2). Which is the same function as described by the instant application. Corning further discloses an ODU layer having an overhead frame part to carry APS signaling information (Page 4, Paragraph 5).

Regarding claim 2, Corning discloses a method where *an ODU dedicated sub-layer is enabled on the nodes that terminate the ODU-path and on all the nodes (Fig. 3.1) belonging to the ODU protection path in the opposite side of the ring, the dedicated sub-layer is used to access the said APS signaling information* (Page 4, Paragraph 5).

Regarding claims 6 and 7, Corning discloses *an optical Transport Network ring and nodes, wherein it comprises means to perform the method of claim 1 (Fig. 2.1, node A and D)*.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corning in the view of Brissette (US Patent 7,143,161, hereinafter Brissette).

Regarding claim 3, Corning discloses all the limitation of claim 3, excepts *the ODU dedicated sub-layer is Tandem Connection Monitoring.*

However, Brissette teaches the ODU dedicated sub-layer is Tandem Connection Monitoring (Fig. 1). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the Tandem Connection Monitoring extract the tandem connection monitoring information from received signals (Abstract).

Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corning in the view of Marra et al. (US Patent 5,341,364, hereinafter Marra).

Regarding claim 4, Corning discloses a method where the APS signaling information is performed at each node (Page 5, Fig. 4.1).

Corning fails to teaches the table with the APS enable information and the table gives information concerning of enabling of each ODU- path.

However, Marra teaches a table (Fig. 11) that gives APS enable information of each ODU –Path.

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the table to store APS information for each node for the purpose of transport any switch request messages in the APS of the appropriate protection path (Col. 7, lines 10 –11).

Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corning in the view of (Transmission and Multiplexing; SDH: Network protection schemes, ETSI ETS300746, February 1997, hereinafter ETSI).

Regarding claim 5, Corning discloses when a failure occurs is an ODU working path, the APS signaling information is routing along the opposite side of the ring (Page 2, Fig 2.2 – Page 3).

Corning fails to teach if the APS signaling information is performed with certain rules. However, ETSI teaches the rule for performing the APS signaling information as described by the instant application (Page 14, 5.1.2.2). Where the Network Element (NE) monitoring all working and protection channel for failure and degradation condition according to the priority level (High or Low traffic) and sends the bridged indication.

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to use certain rule for performing the APS signaling information for the purpose of protect working traffic affected by a hard-failure and request used to protect against soft failure.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dady Chery whose telephone number is 571-270-1207. The examiner can normally be reached on Monday - Thursday 8 am - 4 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



RICKY Q. NGO
SUPERVISORY PATENT EXAMINER